

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:	)	Group Art Unit: 2677
Jun KOYAMA	)	Examiner: Doon Y. Chow
Application No. 09/648,153	)	Confirmation No. 6963
Filed: August 25, 2000	)	
For: LIQUID CRYSTAL DISPLAY DEVICE	)	Date: March 5, 2009

**RENEWED PETITION UNDER 37 CFR 1.137(b)**

**MAIL STOP PETITION**

P.O. Box 1450  
Attention: Office of Petitions  
Commissioner for Patents  
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Petition mailed January 5, 2009, Applicants respectfully request reconsideration of the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) submitted November 19, 2008.

In particular, as indicated in the Decision on Petition, a grantable petition under 37 CFR 1.137(b) must be accompanied by the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was

unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As indicated in section (3), the Director may require additional information where there is a question whether the delay was unintentional. In the present case, the Decision on Petition indicates that the Petition filed November 19, 2008, included all of the above requirements, but the Patent Office has requested additional information regarding item (3) as there is a question whether the delay was unintentional. Applicants provide a more detailed statement in accordance with item (3) herein for consideration.

According to the Decision on Petition, there are three periods to be considered during the evaluation of a petition filed under 37 CFR 1.137(b) including (1) the delay in reply that originally resulted in the abandonment; (2) the delay in filing an initial petition under 37 CFR 1.137(b) to revive the application; and (3) the delay in filing a grantable petition under 37 CFR 1.137(b) to revive the application. The Decision on Petition indicates that the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

With respect to period (1) regarding the delay in reply that originally resulted in the abandonment, Applicants respectfully submit the following statement.

The office action of February 2, 2006, was mailed to Jeffrey L. Costellia of Nixon Peabody LLP at 8180 Greensboro Drive, McLean, VA, 22102, which was not a current address for Mr. Costellia as of the mailing date of the office action. To the contrary, the correct mailing address of Mr. Costellia on February 2, 2006, was Nixon Peabody LLP, 401 9<sup>th</sup> St. NW, Suite 900, Washington, DC, 20004.

A review of Applicants' representative's files indicates that the correspondence address of this application was not expressly updated to the 9<sup>th</sup> St. address. This was surprising to Applicants' representatives because a global Change of Address was submitted based on

Applicants' representative's Customer Number to update the Greensboro Dr. address to the 9<sup>th</sup> St. address. Applicants incorrectly believed that the global Change of Address had been applied to this application as well. Applicants would like to point out that the correct 9<sup>th</sup> St. address was shown on multiple filings, including, for example, the Response After Final Rejection submitted September 30, 2003, and subsequent filings, including the Response to Quayle Action filed November 25, 2003, which Applicants believed placed the present application in condition for allowance. In addition, the correct 9<sup>th</sup> St. address was also shown on the Status Inquiry submitted December 30, 2004.

On this note, Applicants would like to point out that a response to this Status Inquiry was never received, and is not currently shown on PAIR. Moreover, Applicants' representative's docketing system typically generates a reminder for a Status Inquiry at regular intervals, for example, every six months. Unfortunately, no new Status Inquiries were entered into Applicants' representative's docketing system, and no further reminders were generated based thereon.

With respect to the abandonment, Applicants did not receive the Office Action mailed February 2, 2006, because it was mailed to an incorrect and outdated address. Furthermore, as described above, no further Status Inquiries were made. As a result, a response to the Office Action was never filed, and the present application became abandoned on or about May 2, 2006. At the time of abandonment, Mr. Costellia was the party having the right to reply, and, as set forth above, Mr. Costellia did not receive the Office Action, and, thus, was unable to prepare a proper reply in a timely fashion to avoid abandonment.

In view of the foregoing statement, Applicants respectfully submit that the entire delay in period (1) regarding the delay in reply that originally resulted in the abandonment was unintentional. Applicants emphasize that no deliberate actions were taken by Applicants which resulted in the abandonment, and Applicants did not have any intent to allow this application to become abandoned.

With respect to period (2) regarding the delay in filing an initial petition under 37 CFR 1.137(b) to revive the application, Applicants respectfully submit the following statement.

Mr. Costellia first became aware of the mailing of the Office Action mailed February 2, 2006, and the subsequent abandonment of the present application, on or about July 23, 2007, through a manual status check using PAIR, which occurred when Mr. Costellia became aware of the amount of time that had elapsed since any correspondence had been received. The file corresponding to this application was delivered to Stephen M. Hertzler on or about July 23, 2007, soon after Mr. Costellia became aware of the abandoned status of the present application.

It should be noted that it is unclear when Applicants' representatives first became aware of the actual mailing of the Notice of Abandonment, since the Notice of Abandonment was mailed on July 24, 2007, again, to Mr. Costellia at the incorrect and outdated Greensboro Dr. address. For this instance, the Notice of Abandonment was returned to the Patent Office as undelivered on July 30, 2007. There is no record of any further attempts being made by the patent office to notify Applicants' representatives of the abandoned status of the present application. Nonetheless, after Mr. Hertzler and Mr. Costellia became aware of the abandoned status of this application, as noted above, their intent was to seek reinstatement of the application after determining the appropriate course of action.

Unfortunately, no information regarding the abandoned status of the present application was entered into Applicants' representatives' docketing system at the time Mr. Costellia and Mr. Hertzler first became aware of the abandoned status of this application. Therefore, no reminders regarding this application's abandoned status and associated requirements for revival were subsequently generated. These instances of human errors occurred presumably because of the unusual situation surrounding the discovery of the abandonment of this application, including the lack of official documentation received by Applicants' representatives from the Patent Office confirming the abandonment, thereby bypassing the extensive procedural safeguards Applicants' representatives have in place for incoming correspondence. As a direct result of this oversight, the step of determining the appropriate course of action was unfortunately delayed for a matter of

months, but even so, there still was no intentional or deliberate actions taken by Applicants' representatives to delay reinstatement of the application.

Mr. Hertzler and Mr. Costellia then prepared and sent a letter to Applicants on April 8, 2008, informing them of the abandoned status of the present application, and outlining the options for proceeding. Applicants responded via email on April 9, 2008, instructing Mr. Hertzler and Mr. Costellia to take the necessary steps to revive the application, including the preparation of a draft declaration and draft claim amendments for submission with the response to the office action.

Mr. Hertzler and Mr. Costellia prepared the relevant documents, including drafts of a supplemental priority data sheet, an amendment, the change of correspondence address, the petition to revive, and the reissue declaration, and sent them to Applicants via email on July 24, 2008. Mr. Hertzler and Mr. Costellia sent a follow-up email to Applicants on October 10, 2008, to determine the status of Applicants' review of the draft documents, and Applicants replied on October 13, 2008, indicating that an oversight had resulted in the delay of the draft documents being reviewed.

Further emails were exchanged from October 13, 2008 to October 15, 2008, regarding the draft documents, and final instructions were received from Applicants on November 11, 2008, regarding the amendment document. Mr. Hertzler and Mr. Costellia received the new executed declaration documents from Applicants on November 12, 2008, and the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) and related documents were filed on November 19, 2008.

In view of the foregoing statement, Applicants respectfully submit that the entire delay in period (2) regarding the delay in filing an initial petition under 37 CFR 1.137(b) to revive the application was unintentional. No deliberate actions were taken by Applicants or Applicants' representatives to delay seeking the revival of the present application, and neither Applicants nor or Applicants' representatives intended to delay seeking the revival of the present application.

Applicants are submitting this Renewed Petition along with updated copies of the required Petition for Revival form, the Amendment, the Reissue Application Declaration by Inventor, and the Change of Correspondence Address form. These documents have been revised as appropriate to include Mr. Costellia's signature as the Attorney of Record in this case. While Applicants do not believe any fees are due at this time, the Commissioner is hereby authorized to charge any required fees to Deposit Account No. 19-2380.

Respectfully submitted,

Date: March 5, 2009

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